APPENDIX ONE

Act of April 20, 1940, as amended (28 U. S. C. A., 41 [1]):

"The district courts shall have original jurisdiction as follows:

"(1) United States as plaintiff; civil suits at common law or in equity. First. Of all suits of a civil nature, at common law or in equity, brought by the United States, or by any officer thereof authorized by law to sue, or between citizens of the same state claiming lands under grants from different states; or, where the matter in controversy exceeds, exclusive of interest and costs, the sum or value of $3,000, and (a) arises under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, or (b) is between citizens of different states, or citizens of the District of Columbia, the Territory of Hawaii, or Alaska, and any state or territory, or (c) is between citizens of a state and foreign states, citizens or subjects. No district court shall have cognizance of any suit (except upon foreign bills of exchange) to recover upon any promissory note or other chose in action in favor of any assignee, or of any subsequent holder if such instrument be payable to bearer and be not made by any corporation, unless such suit might have been prosecuted in such court to recover upon said note or other chose in action if no assignment had been made. The foregoing provision as to the sum or value of the matter in controversy shall not be construed to apply to any of the cases mentioned in the succeeding paragraphs of this section. Notwithstanding the foregoing provisions of this paragraph, no district court shall have jurisdiction of any suit to enjoin, suspend or restrain the enforcement, operation or execution of any order of an administrative board or commission of a state, or any rate-making

body of any political subdivision thereof, or to enjoin, suspend, or restrain any action in compliance with any such order, where jurisdiction is based solely upon the ground of diversity of citizenship, or the repugnance of such order to the Constitution of the United States, where such order (1) affects rates chargeable by a public utility, (2) does not interfere with interstate commerce, and (3) has been made after reasonable notice and hearing, and where a plain, speedy and efficient remedy may be had at law or in equity in the courts of such state. Notwithstanding the foregoing provisions of this paragraph, no district court shall have jurisdiction of any suit to enjoin, suspend or restrain the assessment, levy or collection of any tax imposed by or pursuant to the laws of any state where a plain, speedy and efficient remedy may be had at law or in equity in the courts of such state."

APPENDIX TWO

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

No. 693 Civil

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BOARD OF COUNTY COMMISSIONERS OF PAWNEE COUNTY, OKLAHOMA, ET AL.,

Defendants.

ORDER FOR STAY OF ENFORCEMENT OF JUDGMENT

This cause came on to be heard on the motion of defendants in this court and appellants in the United States Circuit Court of Appeals for the Tenth Circuit, for a stay of enforcement of judgment under the mandates herein.

On consideration whereof it is now here ordered that the enforcement of the judgment under the mandates shall be stayed until February 26, 1944, and that if on or before said date there is filed with the clerk of this court a certificate of the clerk of the Supreme Court of the United States that a petition for writ of certiorari, record and brief have been filed, the stay hereby granted shall

continue until the final disposition of the case by the United States Supreme Court.

/s/ ROYCE H. SAVAGE,
Judge of the United States
District Court for the Northern
District of Oklahoma.

Endorsed:
Filed, Jan. 10, 1944.
H. P. Warfield, Clerk,
U. S. District Court.

United States of America,
Northern District of Oklahoma, ss:

I, H. P. Warfield, Clerk of the United States District Court in and for the Northern District of Oklahoma, do hereby certify that the annexed and foregoing is a true and full copy of the original order for stay of enforcement of judgment in Civil Case No. 693—United States of America, Plaintiff, v. Board of County Commissioners of Pawnee County, Oklahoma, *et al.*, Defendants, now remaining among the records of the said court in my office.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid court at Tulsa this 2nd day of February, A. D. 1944.

H. P. Warfield, Clerk.
By Angie Comstock,
Deputy Clerk.

(Seal)

APPENDIX THREE

The first bill considered was Senate Bill No. 2047. It was much longer than the final act and was reported out of the Committee on Indian Affairs by Senator Thomas in Senate Report 1232. It was passed by the Senate August 16, 1935. Section 6 of that Act was the one providing for the purchase of lands and reads as follows:

> "Sec. 6. For the purpose of providing lands for Indians in the State of Oklahoma, the Secretary of the Interior is hereby authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange or assignment, any interest in land, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted lands now in Indian ownership, allotted or inherited, whenever said secretary deems it advisable to permit the present Indian owner or owners to part with the same or their interests therein. In the sale of any restricted Indian land, pursuant to the terms of this or any other act of Congress, the Secretary of the Interior shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians of the same or any other tribe, at a fair valuation to be fixed by appraisement satisfactory to the Indian owner or owners of such restricted land, or if offered for sale at auction said secretary shall have a preference right, in his discretion, to purchase the same for or in behalf of any other Indian or Indians by meeting the highest bid otherwise offered therefor. Title to all land so acquired or set aside shall be taken in the name of the United States, in trust for the tribe, band, group or individual for whose benefit such land is so acquired, and the Secretary of the Interior is hereby authorized to designate or proclaim the tribe, band, community

or group of Indians for whose benefit such land is so acquired, and said secretary is further authorized to prescribe such rules and regulations as he may deem necessary to control the use, management and operation of such lands for the benefit of the Indians, including the assignment of the right to use part or parts of such land by individual Indians, the ownership of any improvements placed thereon by or at the expense of the occupant to remain in such occupant and to be devisable and inheritable under such rules and regulations as the Secretary of the Interior may prescribe, and not otherwise: Provided, that in accepting title to any individually owned restricted Indian land for the benefit of any tribe or group of Indians, the Secretary of the Interior, in consideration for such conveyance, may assign the same land to or for the benefit of the former Indian owner or owners, *for such period or periods as the said secretary may deem proper, including a further right or power in such former owner or owners to lease such land to third parties, upon such terms and conditions as the Secretary of the Interior may prescribe*: Provided, however, that nothing herein contained shall be construed as granting or recognizing in any such individual occupant or his or her heirs, any title to any tribal or communally owned lands so occupied, or as giving to the courts of the State of Oklahoma any jurisdiction over any matter affecting the title to, right to use or occupy, or the ownership of any improvements located on any such tribal or communally owned lands; all of which questions are hereby committed to the exclusive jurisdiction of the Secretary of the Interior. Any restricted land, funds, or other securities belonging to Indians of the State of Oklahoma shall, while held by the Secretary of the Interior, be free from any and all taxes save those provided by existing law."

The act went to the House and was amended in Committee, came out in its present form, and thereafter passed

by the Senate. Section 6 of the original Senate Bill became Section 1 of the present act (Section 501, Title 25, U. S. C. A.).

It will be noted that the original Senate Bill contained a clause giving the secretary the right to acquire land from an Indian in trust for that particular Indian. Also that the former owner could lease to third parties.

Both these provisions were left out of the act as finally passed. *Surely this evidences an intent on the part of Congress not to permit rental lands to be acquired.* It also shows that Congress did not intend for an Indian to deed land to the government for his own benefit.

Petitioners now quote from the debates and Committee reports to show the intended purpose of this act.

Mr. Thomas, in explaining the purpose of the original act as reported in Volume 79 of the Congressional Record (74th Congress, 1st Session), said:

> "Mr. Thomas of Oklahoma: Mr. President, the last Congress passed a general welfare Indian bill known as the 'Wheeler-Howard Act.' It was intended to cover all the Indian tribes and Indians in the entire United States. The Indians of Oklahoma are somewhat different from the general mass of Indians in that the Oklahoma Indians have had their reservations cut up and allotted in severalty and the surplus land sold to white settlers.
>
> "The Indians of my state live among the white settlers. All laws applicable to reservation Indians are not applicable to Indians living on farms, as the Indians live in Oklahoma. Because of this distinction the Committee on Indian Affairs at the last session undertook to segregate the Oklahoma Indians from

the other Indians of the United States. This bill is intended to make the provisions of the Wheeler-Howard Act applicable to Indian conditions in Oklahoma. It extends certain provisions to our Indians and makes certain other provisions of law applicable to them. It has to do with their school facilities, hospitalization, *the purchase of land for those who have no land. In general, it is intended to encourage and assist the Indians of the State of Oklahoma.*

"Mr. King: Mr. President, will the Senator yield?

"Mr. Thomas of Oklahoma: Certainly.

"Mr. King: Are those who would be beneficiaries under the bill Indians whose lands have been sold by them and the proceeds probably improvidently employed so they are now without means of support?

"Mr. Thomas of Oklahoma: I think that is correct in the main. In the early days when lands were allotted some Indians were not favorable to the allotment and were not inclined to work the lands. The allotting agents placed them upon lands which were worthless, upon rocks and hills upon which nothing could be grown. *It is the purpose now to take those Indians from those lands and to purchase lands in some other place for them so they may have a chance at least of being self-supporting* * * *.

"Mr. Thomas of Oklahoma: *Under the Wheeler-Howard Act an authorization was made for ten million dollars, two million dollars per year to be appropriated by the Congress for the purpose of buying land for landless Indians. The Indians of Oklahoma will get their proportional share, I take it; at least, I hope so.*"

And the Committee Report (No. 1232), on the original bill, reads as follows:

"*The bill provides further that funds be appropriated for the purpose of purchasing lands for such Indians as may have, through no fault of their own,*

lost their lands. In some sections of the state remnants of tribal lands still remain in the possession and ownership of the government and *in order to provide landless Indians homes*, some of these tracts will be improved with houses.

"The whole plan of the bill is intended to extend to the Indian citizen the fullest possible opportunity to work out their own economic salvation.

"*The lands which the Indians now hold will be protected and additional lands will be provided for those without homes and without a place to reside.* Indian children will be extended school facilities. The health of the Indian citizens will be protected by adequate hospital facilities. Indian citizens who desire to get out from under the management of the Federal Bureau will be enabled to make application and, upon proper showing, they may secure title to their lands and thereafter they may assume their place as full and free citizens of the State of Oklahoma."

And the Committee Report of the Senate Committee on Indian Affairs, dated April 26, 1935, says, in part:

"*Section 8 establishes a policy of land acquisition for landless Indians who desire to live on the land and to use it.* Under this section, the title to such lands, acquired by the Secretary of the Interior for the Indians, is vested in the United States. In any sale of restricted Indian land, the Secretary of the Interior is given a preference right for the purchase of this land for the use of other Indians. Indians may relinquish, exchange, or assign their land titles to the government, retaining the exclusive use of the land, the ownership of improvements thereon, and the right to transmit to heirs. Land acquired by the government under this section will be tax-exempt."

After the bill was sent to the Committee in the House the Committee reported it out in its present form. Mr.

Stubbs, in making the report to the House, in Report No. 2408, said:

> "The bill affects the welfare of approximately 125,000 Indians representing 30 different tribes. This is more than one-third of the total Indian population of the United States. There is a popular impression that the Oklahoma Indians are wealthy. Such is not the case. Generally speaking, the Oklahoma Indians are living in total poverty on land unsuitable for cultivation, and with work opportunities non-existent. Enactment of this legislation will open the door for many of these poverty-stricken people.
>
> "Section 1 of the proposed substitute bill authorized the acquisition of lands, either within or outside the boundaries of existing reservations or nations. The bill directs that only argicultural and grazing lands of good character and quality in proportion to the needs of the Indians be acquired. Title is to be taken in the name of the United States as trustee, *and areas purchased will be assigned to individual use*, but none of the newly acquired lands are to be allotted. All lands purchased are to be non-taxable so long as title remains in the United States, save that provision is made for levying and collecting a state gross production tax on oil and gas produced from newly acquired lands."